

1 Terry A. Coffing (Nev. Bar 4949)
2 MARQUIS AURBACH COFFING P.C.
3 10001 Park Run Drive
4 Las Vegas, Nevada 89145
5 Telephone: 702.382.0711
6 Facsimile: 702.382.5816
7 E-mail: tcoffing@maclaw.com

8 Attorneys for Defendants
9 *[Additional Counsel Listed Below]*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 DAVID FRANCIS, derivatively on behalf of CV
13 SCIENCES, Inc. formerly known as,
14 CANNAVEST CORP.,

15 Plaintiff,

16 v.

17 MICHAEL MONA JR., MICHAEL MONA III,
18 JOSEPH D. DOWLING, BART P. MACKAY,
19 LARRY RASKIN, JAMES MCNULTY, GARY
20 SLIGAR, STEPHEN M. SCHMITZ and EDWARD
21 A. WILSON,

22 Defendants,

23 and

24 CV SCIENCES, INC., formerly known as,
25 CANNAVEST CORP.,

26 Nominal Defendant.
27
28

Case No. 2:18-cv-02284-GMN-NJK

**STIPULATION AND
ORDER CONCERNING A STAY OF
THE ACTION**

Judge: Hon. Gloria M. Navarro

Complaint Filed: November 30, 2018
Trial Date: Not Set

1 WHEREAS Plaintiff David Francis (“Plaintiff”) brought the above-captioned action (the
2 “Action”) derivatively and on behalf of CV Sciences, Inc. formerly known as CannaVEST Corp.
3 (“CV Sciences” or the “Company”), alleging violations breaches of fiduciary duty against certain
4 of the Company’s current and former officers and directors (collectively with CV Sciences,
5 “Defendants”) (Plaintiff and Defendants are collectively referred to herein as the “Parties”);

6 WHEREAS, a related putative class action case entitled *In re CV Sciences, Inc., Securities*
7 *Litigation*, Case No. 2:18-cv-01602-JAD-PAL is pending in the United States District Court,
8 District of Nevada (the “Nevada Securities Action”);

9 WHEREAS, a related putative class action case entitled *In re CannaVEST Corp. Securities*
10 *Litigation*, Case No. 14-cv-02900 is pending in the United States District Court, Southern District
11 of New York (the “New York Securities Action”). The Nevada Securities Action and the New
12 York Securities Action shall be collectively referred to as the “Federal Securities Actions;”

13 WHEREAS, while Plaintiff continues to believe the Action has merit independent of and
14 are not dependent on the ultimate outcome of the Federal Securities Actions, the Parties agree that
15 the discovery taken in the Federal Securities Actions will be relevant to the Action and that further
16 developments in the Federal Securities Actions are relevant to the alleged damages in the Action
17 and may help inform the manner in which the Action proceeds;

18 WHEREAS, the Parties have met and conferred concerning the most efficient manner in
19 which to proceed with this Action brought on behalf of CV Sciences; and

20 WHEREAS, the Parties agree that the interests of efficient and effective case management
21 would best be served by (1) temporarily staying the Action and any other related derivative actions
22 in this Court until the close of fact discovery in either of the Federal Securities Actions, and (2)
23 sharing all discovery generated in the Federal Securities Actions with Plaintiff in the Action, absent
24 any documents marked confidential by the parties in the Federal Securities Actions;

25 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Plaintiff and
26 Defendants, through their undersigned counsel of record and subject to the approval of the Court,
27 as follows:

28 1. All proceedings in this Action and any related derivative actions in this Court shall

1 be stayed until the close of fact discovery in either of the Federal Securities Actions, but that any of
2 the Parties to this Stipulation can request that the Court lift the voluntary stay upon good cause
3 shown by giving the other party a ten (10) day notice that they believe that good cause exists to lift
4 the voluntary stay of the Action and thereafter bringing the matter to the Court's attention and
5 requesting that the stay of the Action be lifted.

6 2. Within thirty (30) days after the close of fact discovery in either of the Federal
7 Securities Actions, the Parties in this Action will meet and confer in good faith to determine a
8 schedule for the Action going forward, and will submit a proposed scheduling stipulation for this
9 Court's review and approval.

10 3. Defendants shall make available to Plaintiff, subject to the entry of an appropriate
11 protective order and the other provisions of this Stipulation: (i) copies of all documents and written
12 responses to discovery requests that were or are produced to the plaintiffs in each of the Federal
13 Securities Actions in the form and manner in which such documents were or are produced to the
14 plaintiffs in the Federal Securities Actions; (ii) all written agreements regarding the scope of
15 discovery that was produced or to be produced by defendants in each of the Federal Securities
16 Actions; and (iii) all deposition transcripts that was or is generated in each of the Federal Securities
17 Actions. This Stipulation is intended to facilitate coordination and to avoid, to the extent
18 practicable, duplicative discovery. Defendants will provide the materials set forth herein to Plaintiff
19 within ten (10) business days of providing them to the respective plaintiffs in the Federal Securities
20 Actions in the case of (i) and (ii), and within ten (10) business days of receiving the final transcript
21 in the case of (iii).

22 4. Plaintiff agrees that, prior to a finding at the pleading stage that Plaintiff has
23 adequately alleged demand futility, documents and information obtained pursuant to paragraph 3 of
24 this Stipulation shall not be used to supplement Plaintiff's allegations of demand futility absent an
25 order of the Court permitting such use. Plaintiff agrees not to use the existence of paragraph 3 of
26 this Stipulation, the substance of any documents or discovery produced pursuant to paragraph 3 of
27 this Stipulation, and/or any documents or information obtained or developed as a result of any
28 documents or discovery produced pursuant to paragraph 3 of this Stipulation as support for any

1 argument that Plaintiff is otherwise entitled to use the documents to supplement allegations of
2 demand futility.

3 5. Notwithstanding the stipulated stay, Plaintiff shall be permitted to file an amended
4 complaint during the pendency of the stay, subject to the provisions in paragraph 4 above.
5 Defendants shall be under no obligation to respond to any complaint while the stay is in effect.

6 6. If Defendants engage in mediation in either or both of the Federal Securities
7 Actions, Defendants agree to provide Plaintiff with reasonable advance notice of the mediation and
8 shall invite Plaintiff to participate in the mediation subject to the consent of the plaintiffs in the
9 Federal Securities Action(s) that are participating in the mediation. In the event that such consent is
10 not obtained, Defendants will mediate with Plaintiff separately at or about the same time.

11 7. If Defendants engage in any settlement conferences or mediations in any
12 shareholder derivative actions initiated on behalf of CV Sciences based on any of the same or
13 similar set of facts as those alleged in this Action, including, but not limited to, *Ruth v. Mona, Jr.*,
14 *et al.*, Case No. 2:15-cv-00481-RFB-VCB, pending in the United States District Court, District of
15 Nevada as well as *Depoti v. Dowling, et al.*, Case No. A-18-782513-C, pending in the District
16 Court, Clark County Nevada, (“Related Derivative Actions”), Defendants agree to provide Plaintiff
17 with reasonable advance notice of such settlement conferences or mediations and shall invite
18 Plaintiff to participate in such settlement conferences or mediations.

19 8. If Defendants provide or provided documents to the plaintiffs in either or both of the
20 Federal Securities Actions in connection with a mediation or settlement discussions, Defendants
21 agree to promptly provide the same documents to Plaintiff in this Action on the same terms they
22 are provided to the plaintiffs in the Federal Securities Actions, subject to the provisions of
23 paragraph 4 above.

24 9. Counsel for Defendants will promptly notify Plaintiff’s counsel if any Defendants
25 are served or were served with any other Related Derivative Actions, and Plaintiff’s counsel shall
26 notify Defendants’ counsel in the event Plaintiff’s counsel becomes aware of any other Related
27 Derivative Actions.

28 10. In the event that any Related Derivative Action is not stayed while this case is

1 stayed or in the event that any of the parties to any Related Derivative Action execute an agreement
2 pertaining to the settlement of that Related Derivative Action without the Parties to this Action also
3 executing an agreement pertaining to the settlement of this Action, then Plaintiff may lift the stay
4 upon providing fifteen (15) days' notice via email to Defendants' counsel.

5 11. In the event that any documents are or were produced to any other CV Sciences
6 shareholder who has filed a shareholder derivative action on behalf of CV Sciences, or demanded
7 the inspection of books and records of CV Sciences, based on any of the same or similar set of
8 facts as those alleged in this Action, Defendants agree to promptly produce those documents to
9 Plaintiff.

10 12. The provision of discovery materials pursuant to this Stipulation will not constitute
11 a waiver of, or in any way limit, Defendants' right to file a motion to dismiss, or other appropriate
12 challenge, arguing that Plaintiff fails to adequately plead demand futility or make a pre-suit
13 demand, or Defendants' right to argue that Plaintiff is not entitled to conduct formal discovery
14 prior to establishing that he has have adequately alleged standing.

15 13. By entering into this Stipulation, the Parties do not waive any rights not specifically
16 addressed herein, including the right to pursue and/or oppose formal discovery and/or file any
17 motion any party deems appropriate once this case is no longer temporarily stayed.

18 14. Within thirty (30) days of the expiration of the stay described above, the Parties
19 shall jointly submit to the Court a proposed schedule for further proceedings in this action.

20 **IT IS SO STIPULATED.**

21 **LEVERTY & ASSOCIATES LAW CHTD.**

MARQUIS AURBACH COFFING

22
23 s/Patrick R. Leverty

s/Terry A. Coffing

24 Patrick R. Leverty (Nev. Bar 8840)

Terry A. Coffing (Nev. Bar 4949)

25 Reno Gould House

10001 Park Run Drive

832 Willow Street

Las Vegas, Nevada 89145

26 Reno, NV 89502

Telephone: 702.382.0711

Telephone: 775.322.6636

Facsimile: 702.382.5816

27 Facsimile: 775.322.3953

tcoffing@maclaw.com

28 pat@levertylaw.com

1 and

2
3 **THE ROSEN LAW FIRM, P.A.**

4 Phillip Kim
5 275 Madison Avenue
6 New York, NY 10016
7 Telephone: 212.686.1060
8 Facsimile: 212.202.3827
9 pkim@rosenlegal.com

10 **THE BROWN LAW FIRM, P.C.**

11 Timothy Brown (*Pro Hac Vice*
12 Applicant)
13 240 Townsend Square
14 Oyster Bay, NY 11771
15 Telephone: 516.922.5427
16 Facsimile: 516.344.6204
17 tbrown@thebrownlawfirm.net

18 *Counsel for Plaintiff*

and

PROCOPIO, CORY,

HARGREAVES & SAVITCH, LLP

S. Todd Neal (*Pro Hac Vice* Applicant)
525 B. Street, Suite 2200
San Diego, CA 92101
Telephone: 619.238.1900
Facsimile: 619.235.0398
todd.neal@procopio.com

Counsel for Defendants

*Michael Mona Jr., Michael Mona III,
Joseph D. Dowling, Bart P. MacKay,
Larry Raskin, James McNulty, Garry
Sligar, Stephen M. Schmitz, Edward
A. Wilson, and CV Sciences, Inc.*

19 **PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED THAT:**

20 1. All proceedings in this Action and any related derivative actions in this Court shall
21 be stayed until the close of fact discovery in either of the Federal Securities Actions, but that any of
22 the Parties to this Stipulation can request that the Court lift the voluntary stay upon good cause
23 shown by giving the other party a ten (10) day notice that they believe that good cause exists to lift
24 the voluntary stay of the Action and thereafter bringing the matter to the Court's attention and
25 requesting that the stay of the Action be lifted.

26 2. Within thirty (30) days after the close of fact discovery in either of the Federal
27 Securities Actions, the Parties in this Action will meet and confer in good faith to determine a
28

1 schedule for the Action going forward, and will submit a proposed scheduling stipulation for this
2 Court's review and approval.

3 3. Defendants shall make available to Plaintiff, subject to the entry of an appropriate
4 protective order and the other provisions of this Stipulation: (i) copies of all documents and written
5 responses to discovery requests that were or are produced to the plaintiffs in each of the Federal
6 Securities Actions in the form and manner in which such documents were or are produced to the
7 plaintiffs in the Federal Securities Actions; (ii) all written agreements regarding the scope of
8 discovery that was produced or to be produced by defendants in each of the Federal Securities
9 Actions; and (iii) all deposition transcripts that was or is generated in each of the Federal Securities
10 Actions. This Stipulation is intended to facilitate coordination and to avoid, to the extent
11 practicable, duplicative discovery. Defendants will provide the materials set forth herein to Plaintiff
12 within ten (10) business days of providing them to the respective plaintiffs in the Federal Securities
13 Actions in the case of (i) and (ii), and within ten (10) business days of receiving the final transcript
14 in the case of (iii).

15 4. Plaintiff agrees that, prior to a finding at the pleading stage that Plaintiff has
16 adequately alleged demand futility, documents and information obtained pursuant to paragraph 3 of
17 this Stipulation shall not be used to supplement Plaintiff's allegations of demand futility absent an
18 order of the Court permitting such use. Plaintiff agrees not to use the existence of paragraph 3 of
19 this Stipulation, the substance of any documents or discovery produced pursuant to paragraph 3 of
20 this Stipulation, and/or any documents or information obtained or developed as a result of any
21 documents or discovery produced pursuant to paragraph 3 of this Stipulation as support for any
22 argument that Plaintiff is otherwise entitled to use the documents to supplement allegations of
23 demand futility.

24 5. Notwithstanding the stipulated stay, Plaintiff shall be permitted to file an amended
25 complaint during the pendency of the stay, subject to the provisions in paragraph 4 above.
26 Defendants shall be under no obligation to respond to any complaint while the stay is in effect.

27 6. If Defendants engage in mediation in either or both of the Federal Securities
28 Actions, Defendants agree to provide Plaintiff with reasonable advance notice of the mediation and

1 shall invite Plaintiff to participate in the mediation subject to the consent of the plaintiffs in the
2 Federal Securities Action(s) that are participating in the mediation. In the event that such consent is
3 not obtained, Defendants will mediate with Plaintiff separately at or about the same time.

4 7. If Defendants engage in any settlement conferences or mediations in any
5 shareholder derivative actions initiated on behalf of CV Sciences based on any of the same or
6 similar set of facts as those alleged in this Action, including, but not limited to, *Ruth v. Mona, Jr.,*
7 *et al.*, Case No. 2:15-cv-00481-RFB-VCB, pending in the United States District Court, District of
8 Nevada as well as *Depoti v. Dowling, et al.*, Case No. A-18-782513-C, pending in the District
9 Court, Clark County Nevada, (“Related Derivative Actions”), Defendants agree to provide Plaintiff
10 with reasonable advance notice of such settlement conferences or mediations and shall invite
11 Plaintiff to participate in such settlement conferences or mediations.

12 8. If Defendants provide or provided documents to the plaintiffs in either or both of the
13 Federal Securities Actions in connection with a mediation or settlement discussions, Defendants
14 agree to promptly provide the same documents to Plaintiff in this Action on the same terms they
15 are provided to the plaintiffs in the Federal Securities Actions, subject to the provisions of
16 paragraph 4 above.

17 9. Counsel for Defendants will promptly notify Plaintiff’s counsel if any Defendants
18 are served or were served with any other Related Derivative Actions, and Plaintiff’s counsel shall
19 notify Defendants’ counsel in the event Plaintiff’s counsel becomes aware of any other Related
20 Derivative Actions.

21 10. In the event that any Related Derivative Action is not stayed while this case is
22 stayed or in the event that any of the parties to any Related Derivative Action execute an agreement
23 pertaining to the settlement of that Related Derivative Action without the Parties to this Action also
24 executing an agreement pertaining to the settlement of this Action, then Plaintiff may lift the stay
25 upon providing fifteen (15) days’ notice via email to Defendants’ counsel.

26 11. In the event that any documents are or were produced to any other CV Sciences
27 shareholder who has filed a shareholder derivative action on behalf of CV Sciences, or demanded
28 the inspection of books and records of CV Sciences, based on any of the same or similar set of

1 facts as those alleged in this Action, Defendants agree to promptly produce those documents to
2 Plaintiff.

3 12. The provision of discovery materials pursuant to this Stipulation will not constitute
4 a waiver of, or in any way limit, Defendants' right to file a motion to dismiss, or other appropriate
5 challenge, arguing that Plaintiff fails to adequately plead demand futility or make a pre-suit
6 demand, or Defendants' right to argue that Plaintiff is not entitled to conduct formal discovery
7 prior to establishing that he has have adequately alleged standing.

8 13. By entering into this Stipulation, the Parties do not waive any rights not specifically
9 addressed herein, including the right to pursue and/or oppose formal discovery and/or file any
10 motion any party deems appropriate once this case is no longer temporarily stayed.

11 14. Within thirty (30) days of the expiration of the stay described above, the Parties
12 shall jointly submit to the Court a proposed schedule for further proceedings in this action.

13 **IT IS SO ORDERED.**

14 DATED this 6 day of March, 2019.



Gloria M. Navarro, Chief Judge
UNITED STATES DISTRICT COURT